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**JUL 20 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Granoff et al. :  
Application No. 09/917,222 : ON PETITION  
Filed: July 27, 2001 :  
Attorney Docket No. CHOR-001 :

This is a decision on the "REQUEST UNDER 37 C.F.R. §1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 19, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased by one hundred forty-seven (147) days, from one hundred seventy-three (173) days to three hundred twenty (320) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred twenty-one (321)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 21, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 173 days. On January 19, 2005, applicants timely<sup>1</sup> submitted an application for patent term adjustment (with required fee). Applicants dispute the period of adjustment for Office failure to mail a first action under 35

<sup>1</sup> PALM records indicate that the Issue Fee payment was received on March 15, 2005.

U.S.C. 132. Applicants maintain that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 405 days. Specifically, applicants state that such action was mailed on November 7, 2003, 405 days after the fourteen-month date.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on November 7, 2003, is 406 (not 405) days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), September 28, 2002, and ending on the date of the mailing of the first action under 35 U.S.C. 132, November 7, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred twenty-one (321) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

*Karin A. Ferriter*  
*for*

Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Attachment: Copy of Revised PAIR Screen